HUGH M. DORSEY
SOLICITOR GENERAL ATLANTA CIRCUIT
COURT HOUSE, ATLANTA, GA.

Atlanta, Ga., May 22, 1915.

Mr. R. E. Davison,
Chairman, Prison Commission of Georgia,
Atlanta, Georgia.

Dear Sir:--

In re. Application of Leo M. Frank
for commutation of death sentence

In acknowledging receipt of notice of the pending application for executive clemency in behalf of the above stated party, convicted of murder at the July, 1913, term of Fulton Superior Court, and in reply to your communication on the same subject dated May 17th, 1915, I beg to say that I have no objection to the date assigned by you for the hearing of the application.

As Rule 5 of the "Joint rules established by the Governor and the Prison Commission governing applications for executive clemency" requires the papers submitted to your board to "include expressions of opinion as to the merits of the application from the Judge or Solicitor General who tried the case, when obtainable," and as Judge Roan, now deceased, presided as judge, and I represented the State as solicitor general upon the trial, I assume that your notice of the assignment of the hearing is intended to invoke the written expression, required by the rule, as to the merits of the pending application of Frank for executive clemency.

The petition recites the filing, with the Prison Board, of "four copies of the brief of the evidence introduced at the trial upon which the conviction of the petitioner was based."

The records of the motion for new trial, which was overruled by the trial judge, and of the decision of the Supreme Court of Georgia affirming the judgment, the extraordinary motion for new trial which was likewise overruled by the Judge of Fulton Superior Court; the decision of the Supreme Court of Georgia affirming that judgment; the motion to set aside the verdict of the jury, overruled by Judge Benj. H. Hill, and the decision of the Supreme Court of Georgia affirming said decision; the writ of habeas corpus denied by Judge W. T. Newman, of the United States Court, and the decision of the Supreme Court of the United States affirming that judgment, are doubtless part of the record that will be considered by you, and if not can be furnished by me, upon request, for your consideration.

The records present the details of the crime for the commission of which Frank was convicted by the courts of this county, and illustrate the conditions and circumstances under which the crime was committed.

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I do not understand the application for executive clemency to set up any newly discovered evidence, or other grounds not heretofore considered and finally adjudicated by the various judges of all the courts, state and federal, which have declined to interfere with the verdict of the jury finding Frank guilty of the murder of Mary Phagan.

This is therefore an application for the amelioration of the penalty of a crime for the commission of which the courts have finally adjudicated the applicant guilty. Indeed, the application does not pray for a pardon, but in express terms asks that the applicant be punished by life imprisonment instead of the penalty imposed by the trial court.

The facts and circumstances surrounding the commission of the murder of Mary Phagan do not invoke the exercise of mercy or offer inducement to temper the penalty of the law to one who has been finally convicted of the crime.

I do not believe that the education, opportunities, and influence of the applicant or the importunities of his friends should be permitted to affect the expression of an official opinion, and I confess myself unable to find in the record of this case a single ground upon which to justify the solicitor general, charged with the enforcement of the law, in asking that the decrees of the courts shall be overridden by the governor, the chief executive, upon whom, also, the Constitution of the State enjoins the sacred obligation to "take care that the laws are faithfully executed."

The very fact that the conviction of the applicant by a jury of twelve citizens has been affirmed by the judges of all the courts, state and federal, by whom the case has been reviewed, despite the circumstances of the defendant and the unusual and indefatigable exertions of his influential friends in and out of Georgia, confirms my sincere respect for the integrity of our courts and justifies my deep conviction that in this case the ends of justice have been accomplished by the processes of the law.

If there should be matters not disclosed by the record, where my information or the files of my office, can serve you in the consideration of this application, I am subject to your commands.

With respect, I am,

Yours truly,

Hugh M. Dorsey

Solicitor General, Atlanta
Judicial Circuit.